



## **APPEAL POLICY**

### **1. Right to Appeal**

A Member who is materially and adversely directly affected by a decision of the Board of Directors, the Discipline Committee, any other Committee, or by an individual who has been delegated authority to make decisions on behalf of the Board of Directors of Bowls BC, has the right to appeal that decision, provided there are sufficient grounds.

### **2. Transfer to Dispute Resolution Process**

At any time in the appeal process, the appellant and respondent can jointly agree to invoke the Bowls BC Dispute Resolution Procedure of negotiation, facilitation, and mediation and/or arbitration to their conclusion. If Dispute Resolution is pursued, the appeal procedures within this policy will be suspended and internal jurisdiction transferred to the Dispute Resolution process.

### **3. Principles of Natural Justice**

Bowls BC shall adhere to the principles of natural justice, as described below:

- a. The parties will be advised of the provisions of this policy.
- b. The parties will be given an opportunity to present evidence in support of their positions and to defend themselves against allegations.
- c. The issues will be clearly and concisely stated so that the parties are aware of the allegations.
- d. The parties have the right to be represented by a lawyer or advocate at any stage of the process at their own expense.
- e. The parties will receive copies of all notices, statements, reports, and decisions.
- f. The decision-makers have a duty to listen fairly to both sides and to reach a decision untainted by bias.

### **4. Confidentiality**

Subject to any limits or disclosure requirement imposed by law or required by the policies of Bowls BC, any and all information, oral and written, created, gathered, received or compiled during and through the course of a proceeding under these policies, including details regarding a proceeding itself, is to be treated as confidential by all parties, provided that decisions of the Appeal Committee shall be made public.

### **5. Transfer of Presidential Responsibility**

If the President is named in the Appeal, or has a conflict, all Presidential responsibilities under this Policy will be undertaken by the Director of Administration.

## **6. Representation by a Responsible Adult**

If a party is a minor (the “minor party”), or someone otherwise unable to speak for him or herself, a proceeding may be brought forward by a “Responsible Adult.”, being a parent, guardian, or other adult of the person’s choice who may speak on behalf of a minor party. The Responsible Adult will have the right to act on behalf of the minor party throughout the proceeding.

## **7. Limitations of the Policy**

This right to appeal will not apply to decisions relating to:

- a. infractions for doping offences, which are dealt with through the Bowls BC Anti-Doping Policy and the Canadian Anti-Doping Program.
- b. eligibility or team selection matters that are dealt with through the Bowls BC Team Selection Policy.
- c. matters of budgeting, budget implementation, or operational structure of Bowls BC;
- d. matters that are decided by the general membership of Bowls BC.
- e. commercial matters for which another dispute resolution process exists under a contract or applicable law, including employment law.
- f. the rules of the sport of lawn bowling.

## **8. Grounds for Appeal**

Decisions may only be appealed, and appeals may only be heard on procedural grounds or if a decision made is grossly unreasonable or unfair. Legitimate grounds for appeal include:

- a. the Board, a committee or an individual making a decision for which they did not have authority or jurisdiction as set out in governing documents.
- b. failing to follow procedures as laid out in the Bylaws or approved policies of Bowls BC.
- c. making a decision that was influenced by bias, where bias is defined as ‘a lack of neutrality to such an extent that the decision-maker is unable to consider other views, or made a decision that was influenced by factors unrelated to the merit of the decision’; or
- d. making a decision that is grossly unreasonable or unfair.

## **9. Submission of Appeal**

Members who wish to appeal a decision will have 10 days from the date on which they received notice of the decision, to submit an Appeal in writing to the President of Bowls BC. The member will be “the appellant”.

The Appeal will contain the contact information for the appellant, the name of the respondent (the individual or body whose decision is being appealed), grounds for the appeal, a summary of the evidence that supports these grounds, and the remedy or remedies requested.

### **9.1 Requesting Postponement of Prior Decision During Appeal Procedures**

When the Appeal is submitted, the appellant may also submit a written request for the Appeals Manager to rule that any penalties or consequences related to the decision under appeal be held in abeyance until after the hearing.

## **10. Appeals Manager**

Within 3 days of receipt of a Notice of Appeal, the President shall appoint an Appeals Manager.

## **10.1 Role of Appeals Manager**

The role of the Appeals Manager is:

- a. to serve in an unbiased capacity.
- b. to provide information about the resources and support available to the parties; and
- c. to facilitate and administer the process for appeals. The Appeals Manager must not have any personal or professional involvement with either the Appellant or Respondent and no prior involvement with the matter under consideration.

## **11. Screening of Appeal**

### **11.1 Review Process**

Within 5 days of receiving the Appeal, the Appeals Manager will determine whether there is a right of appeal (Section 1), whether the appeal has been brought in a timely way (Section 9) and whether the appeal is brought on appropriate grounds (Section 8).

### **11.2 Decision of the Appeals Manager**

If the appeal is denied on the basis that there is no right of appeal, that the appeal is not timely, or that the appeal is based on insufficient grounds, the Appeals Manager will notify the appellant of this decision in writing, giving reasons. This decision is at the sole discretion of the Appeals Manager and is final.

If the Appeals Manager is satisfied that the appeal meets the procedural allowances herein, he/she shall send a copy of the Appeal to the respondent to the Appeal.

## **12. Other Parties**

If any decision of the Appeal Committee may affect another party to the extent that the other party would have recourse to an appeal in their own right under this policy, that party will become a party to the appeal in question and will be bound by its outcome. The Appeals Manager will notify the other party of the Appeal and invite them to be involved in the proceedings.

## **13. Appeal Committee**

An Appeal Committee composed of three persons, including the Chair, will be appointed by the Appeals Manager. Committee members will be selected from an Appeals Roster maintained by Bowls BC. In any event, no members of the Appeal Committee shall have any personal or professional involvement with either the appellant or respondent and no prior involvement with the matter under appeal.

### **13.1 Appeal Hearing**

The Appeal Committee, assisted by the Appeals Manager, is responsible to ensure that procedural fairness is always respected during the appeal process and to carry out this process in a timely manner.

- a. The Appeal Committee may, in its discretion, hold a preliminary conference to consider such procedural issues as it considers necessary. The parties to the appeal and other parties as determined by the Appeals Manager shall participate in the preliminary conference.
- b. The Appeal Committee will determine the format of the appeal hearing, which should be held in a timely manner, and which may be in person, by tele-conference, by an online meeting service, based on written submissions or a combination of these methods.
- c. The appellant and respondent and other parties will be given reasonable notice of the hearing format as well as date, time, and place of the hearing. They may be accompanied by a legal

representative or advocate at their own expense and will have the right to present evidence and argument before the Appeal Committee.

- d. After hearing the matter, the Appeal Committee will reach a decision as to whether the Appeal will be upheld and determine the remedy for the matter.
- e. The Appeal Committee will issue a written decision within 5 days, including reasons, for distribution to the appellant, the respondent, and the Appeals Manager.

### **13.2. Appeal Committee Authority**

The Appeals Committee may decide:

- a. to reject the appeal and confirm the decision being appealed; or
- b. to uphold the appeal and refer the matter back to the initial decision-maker for a new decision; or
- c. to uphold the appeal and insert a new remedy for the matter.

### **13.3 Appeal Committee Decision**

Following the hearing, the Appeals Committee will issue its written decision, with reasons within 10 days after completing a hearing.

### **13.4 Verbal Decisions**

In extraordinary circumstances, the Appeal Committee may issue a verbal decision or a summary written decision, with written reasons to follow.

## **14. Communication of Appeal Decision**

The Appeal Committee shall send notice of its decision and the reasons for such decision by registered mail to the last known addresses of the appellant, the respondent, any other parties, the Appeals Manager and to the Bowls BC President. The decision will be made public.

## **15. Independent Advice**

In fulfilling its duties, and with the approval of the President, the Appeal Committee may obtain independent advice. Any expenses incurred in doing so are the responsibility of Bowls BC.

## **16. Appeal Materials**

After completion of its duties, the Appeal Committee will turn over all copies of materials related to the appeal to Bowls BC.

## **17. Costs Incurred by Each Party**

Any travel and/or accommodation costs incurred, or the costs of legal or advocacy representation for any of the appellant, the respondent or other parties shall be the sole responsibility of the party incurring the cost. Administrative costs for the Appeal Hearing and costs incurred for the Appeal Committee and Appeals Manager will be the responsibility of Bowls BC.

## **18. Final and Binding Decision**

The decision of the Appeal Committee will be final and binding on the parties and on all members of Bowls BC.